

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Thrive Chiropractic LLC
Petitioner

File No. 21-1553

v

MemberSelect Insurance Company
Respondent

Issued and entered
this 14th day of February 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On December 1, 2021, Thrive Chiropractic LLC (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of MemberSelect Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on July 19, 2021; August 3, 19, 24, and 30, 2021; September 13, 2021, and 29, 2021; October 25, 2021; and November 3, 15, and 17, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 28, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 28, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on January 11, 2022.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 27, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for chiropractic and therapeutic treatments rendered on 46 dates of service¹ under procedure codes 98942, 97112, and 97110. These procedure codes are described as chiropractic manipulative treatment of the spine, neuromuscular reeducation, and therapeutic procedure, respectively. In its *Explanation of Benefits* letters, the Respondent referenced American College of Occupational and Environmental Medicine (ACOEM) guidelines for cervical and thoracic spine disorders and low back disorders. The Respondent further stated that “the medical records do not support this request as the [injured person] began chiropractic care on 06/13/2017, which exceeds guideline recommendations.”

With its appeal request, the Petitioner submitted supporting documentation which identified the injured person’s diagnoses as segmental and somatic dysfunction of the cervical, lumbar, thoracic, sacral, and pelvic region; pain in the thoracic spine; cervicalgia; muscle spasm; pain in unspecified shoulder; pain the right ankle and joints of the right foot; and low back pain following a June 2017 motor vehicle accident. Additional documentation provided by the Petitioner noted the injured person underwent surgery in January 2018 for revision of an instrumented posterior spinal fusion at C6-C7.

The Petitioner’s request for an appeal stated:

[The motor vehicle accident] has led to [the injured person] needing surgery, physical therapy, pain injections as well as chiropractic care and massage therapy. [The injured person’s] condition has led him to continue the need of treatment to allow him to maintain a semi-normal life. Without treatment of Chiropractic and Massage Therapy [the injured person] reports a severe decline in health, mobility and overall bodily function.

In its reply, the Respondent reaffirmed its position that the treatments provided on the dates of service at issue were not medically necessary and were overutilized based on ACOEM guidelines. Specifically, the Respondent stated:

A prior denial of these requests was made as the medical records that were received did not support these requests. Additional medicals have been received and reviewed. The medical records do not support this request as per history it appears chiropractic therapy treatment has been provided since 6/13/2017 with little to no interruption, for the [diagnoses noted above]. Per the chiropractic documentation, “headache, neck, bilateral shoulder, glut, mid and low back pain and leg, right foot pain and numb,” with noted “restricted movement” at present. Effectiveness of treatment is noted as “good”. The Chiropractic treatment well exceeds the ACOEM recommendation guidelines of 12 sessions over 6 to 8

¹ The dates of service at issue are: June 14, 16, 18, 21, 23, and 25, 2021; July 5, 7, 9, 12, 14, 16, 19, 21, 23, 26, 28, and 30, 2021; August 2, 8, 11, 13, 16, 23, 27, and 30, 2021; September 1, 9, 10, 13, 15, 17, 19, 20, 23, 26, 27, and 30, 2021; October 1, 4, 6, 8, 11, 13, 18, and 22, 2021.

weeks. Significant opportunity has been given to establish a self-directed, conditioning, exercise, regime for an active home program.

III. ANALYSIS

Director's Review

Under MCL 500.3157a(5), a provider may appeal an insurer's determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a practicing chiropractor. In its report, the IRO reviewer referenced R 500.61(i), which defines "medically accepted standards" as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, boards, and associations. The IRO reviewer relied on American College of Occupational and Environmental Medicine (ACOEM) for cervical and low back disorders for its recommendation.

The IRO reviewer opined that the chiropractic treatments at issue are not consistent with ACOEM guidelines. The IRO reviewer noted that the injured person sustained an injury from a motor vehicle accident and underwent instrumental posterior spinal fusion at C6 and C7 on June 28, 2018. The IRO reviewer indicated that the injured person received an extensive course of treatment for ongoing symptoms.

The IRO reviewer opined that the submitted documentation did not provide "evidence of significant subjective or objective improvement despite the extensive level of treatment provided." The IRO reviewer explained that the injured person "reported ongoing complaints suggesting that the treatment has become little more than maintenance or elective in nature and is not supported for medical necessity." The IRO reviewer opined that "in the absence of lasting quantifiable improvement and the treatments have exceeded ACOEM guidelines, the treatments for the dates of service in question were not medically necessary."

The IRO reviewer recommended that the Director uphold the Respondent's determination that the chiropractic and therapeutic treatments provided to the injured person on dates of service at issue was not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).


IV. ORDER

The Director upholds the Respondent's determinations dated July 19, 2021; August 3, 19, 24, and 30, 2021; September 13, 2021, and 29, 2021; October 25, 2021; and November 3, 15, and 17, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person's eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X 

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford